

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION CONFERENCE COMMITTEE ON SENATE AMENDMENTS TO HOUSE BILL 360

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on April 17, 2001
at 1:15 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Rep. Jim Shockley, Vice Chair (R)
Rep. Paul Clark (D)
Rep. Merlin Wolery (R)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Staff
Mary Lou Schmitz, Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: **HB 360**

Senator Grosfield referred to an amendment
EXHIBIT (cch84hb0360a01) and asked for an explanation. **Ms. Lane**
said essentially it would not change the Senate amendment. **Rep.**
Clark cited reasons for adding (b) In a prosecution under 45-5-
503, if the sexual intercourse was without consent based solely
on the victim's age, the victim willingly participated, and the
offender is not more than 3 years older than the victim, the
offense is not a crime of violence for purposes of this section".

Discussion: **Senator O'Neil** raised a concern of someone looking at
a 17-year old girl on a computer. That would be in accordance
with the statute. **Rep. Clark** said the Senate amendment stated

basically "any sexual offense" so that would be a felony. That was not his original intention.

Rep. Clark cited the most grievous example of something that should be an exception is a statutory rape case with willing participants on both sides and yet there is no consent and they are underage.

Ms. Lane said the concern of **Senator O'Neil's** is in 45-5-625 which is life imprisonment and that seems too strong for a felony.

Senator Pease referred to the amendment, page 1, line 29 and asked if that is close to the language that was struck on the Title? **Rep. Clark** said the language was somewhat convoluted and he saw all that was crossed out and the language re-inserted. He is not sure of a clear understanding or what the intention was when they crossed out that section "sexual intercourse without consent when the victim is less than 16 years of age and the offender is 3 or more years older than the victim".

Senator Grosfield said at least some of the motivation for the Senate amendment was that a member of the public going to the library, looking this up, will take them about an hour to figure out what it really means.

Rep. Clark said he would be willing to go with an amendment to re-insert the original language in a more understandable form. He mentioned 45-5-502, 45-5-503, 45-5-507, sexual assault and rape. He wasn't talking about Internet material. **Sen. O'Neil** said he liked that.

Motion/Vote: Rep. Clark made a substitute motion to insert "under: 45-5-502 for which the maximum potential sentence is life imprisonment or imprisonment in a state prison for a term exceeding 1 year;

45-5-503, except as provided in subsection (2) (b); or

45-5-507, is the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing the offense. In a prosecution under 45-5-503, if the sexual intercourse was without consent based solely on the victim's age, the victim willingly participated, and the offender is not more than 3 years older than the victim, the offense is not a crime of violence for purposes of this section"

Motion carried unanimously 6-0.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 24}

ADJOURNMENT

Adjournment: 1:36 P.M.

SENATOR LORENTS GROSFIELD, Chairman

Mary Lou Schmitz , Secretary

LG/mls

EXHIBIT (cch84hb0360aad)